

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DAVID KARCHER

PLAINTIFF

v.

CIVIL ACTION No. 1:17-cv-266-HSO-JCG

**RICHARD V. SPENCER, *Secretary of
the Navy*, and DEPARTMENT OF THE
NAVY**

DEFENDANTS

ORDER TO SHOW CAUSE

This cause is before the Court *sua sponte*. Plaintiff filed his Complaint on September 25, 2017, naming as defendants Richard V. Spencer and the Department of the Navy. (ECF No. 1). Summons were issued the next same day for Richard V. Spencer. (ECF No. 2). However, to date, no summons have issued for the Department of the Navy, and no proof of service has been filed for either defendant.

Federal Rule of Civil Procedure 4(m) provides in pertinent part:

If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. . . .

Fed. R. Civ. P. 4(m). The ninety-day period concluded December 24, 2017. To date, no proof of service has been filed for either defendant.

Accordingly, **IT IS HEREBY ORDERED** that on or before **January 25, 2017**, Plaintiff shall file proof of service for Defendants Richard V. Spencer and the Department of the Navy or otherwise file a response showing cause why these

defendants should not be dismissed without prejudice, pursuant to Federal Rule of Civil Procedure 4(m), for Plaintiff's failure to timely effect service of process.

Plaintiff is warned that failure to file a timely response to the Court's order may result in dismissal of his claims against Defendants Richard V. Spencer and the Department of the Navy without prejudice and without further notice to Plaintiff.

SO ORDERED, this the 11th day of January, 2018.

s/ John C. Gargiulo

JOHN C. GARGIULO

UNITED STATES MAGISTRATE JUDGE